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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,529	07/30/2003	Anthony J. Baerlocher	0112300-753	9259

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BELL, BOYD & LLOYD LLP
P.O. Box 1135
CHICAGO, IL 60690

EXAMINER

SPRIGG, SEAN M

ART UNIT	PAPER NUMBER
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3714

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/30/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/630,529

Applicant(s)

BAERLOCHER, ANTHONY J.

Examiner

Sean Sprigg

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>10/16/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement (IDS) submitted on 10/16/06 is being considered by the examiner.

Claim Rejections - 35 USC § 102

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
 1. Claims 1-5, 9-19, and 23-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Brossard'767 (USPN 6,364,767).

Claim 1: Brossard'767 discloses a gaming device that awards a prize to a player, who places a wager to play the device, based on a number of sections of a award distributor associated with the game that are defined coordinates of color, artist, and song (Abstract, Fig. 1 and cols. 1-4). The sections are selected by a processor, which appears to independently and randomly selects coordinates associated with a particular section and provides an award associated with the section (cols. 2-3 lines 60-56, col. 4 lines 15-41). Symbols of words indicating the artist, song and color or identifiers are associated with each section (Fig. 1, col. 3 lines 23-51 and col. 5 lines 28-63), and when a selection is made a pointer indicates the selected section (cols. 3-4 lines 56-14). The prize that is distributed to the player is dependent on the award associated with the section and the selection of a section made by the processor (col. 4 lines 42-65 and Fig. 2B). As the processor causes such selections to be made and the

section indicator to indicate certain sections, Brossard'767 discloses causing a display of the symbols and indicating one of the sections of the award distributor. As an example of the gaming machine in operation, the processor first determines values for each section of the award distributor by making a selection of a color, artist, and song, wherein the greatest award amount is associated with the section that matches all three coordinates, no award is associated with the section(s) that have no correct coordinates, and varying award amounts are associated with sections that match only some of the coordinates. Then, the processor is operable to randomly determine coordinate values that cause the pointer to indicate a section associated with the coordinate values. Finally, the amount of an award provided to the player is based on the value associated with the determined section. It is noted that the sections are situated in a predetermined arrangement on the award distributor, wherein the predetermined arrangement is determined in a number of ways. Firstly, it can be said that the predetermined arrangement includes an arrangement wherein the sections that are to be winning sections are arranged in a formation adjacent to the section indicator. Brossard'767 discloses this arrangement by placing the section indicator into a predetermined adjacent relationship with the winning section. Secondly, it can be said that the predetermined arrangement includes an arrangement wherein the wherein the sections are on the award distributor. Clearly, Brossard'767 discloses the sections being on the award distributor. As Brossard'767 discloses each of these arrangements, it can be said that

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Brossard'767 discloses "a plurality of sections situated in a predetermined arrangement.

Claims 9-11, 15: Brossard'767 discloses the symbols being award symbols in that the symbols in each section are associated with a given award and are elements in the game (Fig. 1, Fig. 2B, and cols. 3-6). Many awards are associated with the symbols in the various sections and the awards are monetary values (Fig. 1, Fig. 2B, and cols. 5-6).

Claims 2-5, 12, 14: Brossard'767 discloses probabilities that are associated with each of the coordinates, which are randomly determined, in determining the section to be indicated, and that the probabilities can be equal or distributed in a way that is desirable (col. 3 lines 23-51 and col. 4 lines 15-41).

Claim 13: Brossard'767 discloses a number of sections with each having an associated award and that the processor can determine multiple sections in a number of turns (col. 4 line 66 to col. 5 line 12). Brossard'767 implies that the award associated with each determined section is totaled and the total award is provided to the player by disclosing that an additional award, an award in addition to the awards provided for the determined sections, is provided in certain instances (col. 5 lines 1-12).

Claim 16-19: Brossard'767 discloses that the selection indicator could be a number of lights that illuminate the sections in rotational or random manner and that combinations of the sections can be lit at the same time (col. 4 lines 4-14).

Claim 23, 24: Brossard'767 discloses an award wheel and the processor rotating the wheel upon the player inputting a final command (col. 3 line 51 to col. 4 line 3).

Claim Rejections - 35 USC § 103

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 6-8 and 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brossard'767 in view of Kamille'997 (USPN 5,996,997).

Claims 6 and 20: Brossard'767 teaches all the features of the claimed invention, including allowing the player to cause multiple determinations to be made for receiving multiple awards (cols. 4-5 lines 66-12), except for one of the sections being a terminator symbol.

Kamille'997 teaches a gaming apparatus and method wherein multiple selections are made of sections of a game card or other apparatus (Abstract, cols. 3-16). Some of the sections contain award value symbols, while others contain "Void" symbols that cause the game to terminate and prevent the player from receiving any more awards (Figs. 6A-6B). Kamille'997 appears to teach these features to limit the probability of an award being provided and limiting the amount of a total award value by stopping the game earlier (cols 1-3).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Brossard'767 with terminating symbols in a number of sections as taught by Kamille'997 for the purposes of limiting the

awards provided to a user and thereby reduce the risk to operators of the gaming machine.

Claims 7-8, 21-22: Brossard'767 teaches all the features of the claimed invention, including allowing the operator of the game to provide a probability of selecting any section such that the probabilities between sections are equal or disparate based on the operator's preference, except for teaching the probability of the terminating sections being greater than all of the other sections.

Kamille'997 teaches that it is desirable to decrease the liability of a gaming device by increasing the probability of a non-awarding result (cols. 1-3).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Brossard'767 to increase the probability of the terminating symbols to be greater than the probability of receiving any other symbol for the purpose of limiting the liability to the operator.

Response to Arguments

4. Applicant's arguments filed 10/16/06 have been fully considered but they are not persuasive. Applicant argues that Brossard'767 and the remaining references cited do not disclose or teach the plurality of sections being situated in a predetermined arrangement on the award distributor.

5. Examiner respectfully disagrees. Examiner refers Applicant to the above explanation of how Brossard'767 discloses the plurality of sections being situated in a predetermined arrangement on the award distributor. In addition to the above explanations, Applicant should note that it is not claimed that the plurality of sections

always be located on the award distributor, or that each section is always arranged in a particular arrangement on the distributor. Rather, all that is claimed is that they be in a predetermined arrangement. This arrangement appears to be so broad that any relationship between sections, such as the ones described above, could be used. Furthermore, Applicant should note that even if the claims were amended to exclude "created" sections, Brossard'767 inherently includes the possibility that each of the sections which exist before the wheels spin will exist in the final arrangement, wherein the rotation of the wheels serves merely as an animation or anticipation feature. Therefore, the sections that existed on the award distributor in a predetermined arrangement before the bonus feature are maintained in the same arrangement on the award distributor at the end of the game. For this reason and the interpretations presented above, Applicant's arguments are not persuasive.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sean Sprigg whose telephone number is (571) 272-5562. The examiner can normally be reached on Monday - Friday, 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert P. Olszewski can be reached on (571) 272-6788. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SMS



SCOTT JONES
PRIMARY EXAMINER

1/16/07